

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DISHAWN OMAR CURRY,

Case No. 05-CV-2781 (PJS/JSM)

Plaintiff,

v.

ORDER

FEDERAL BUREAU OF PRISONS;
W.I. LEBLANC, JR., Warden;
FOOD SUPERVISOR FALLON; and
FOOD SUPERVISOR NEWMAN,
in their individual and official capacities,

Defendants.

Dishawn Omar Curry, pro se.

Patricia R. Cangemi, Assistant United States Attorney, UNITED STATES ATTORNEY'S OFFICE, for defendants.

Plaintiff Dishawn Omar Curry brings this action pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), to redress injuries he allegedly suffered while imprisoned at the Federal Medical Center – Rochester. Defendants filed a motion to dismiss or for summary judgment, and on June 13, 2007, Magistrate Judge Janie S. Mayeron issued a Report and Recommendation (“R&R”) recommending that defendants’ motion be granted. Objections to the R&R were originally due on July 2, but the Court granted Curry an extension until September 4. Curry did not file an objection, but instead asked for another two- or three-month extension because he is in segregation and does not have access to law books (although he states that there is “some form of legal access for inmates in segregation”). Docket No. 44.

The short time period normally allotted for objecting to an R&R reflects the fact that parties are supposed to have fully briefed the issues before the magistrate and will therefore not

need much time to identify any legal or factual error contained in the R&R. From the nature of Curry's request, it is evident that he is contemplating a legal, rather than a factual, objection. Curry does not identify any specific legal point that he wishes to research, however, and as he filed this case in 2005, he has had ample time to research the legal basis of his claims. Moreover, in objecting to an R&R, parties are not permitted to raise legal arguments that they did not raise before the magistrate. *See Madol v. Dan Nelson Auto. Group*, 372 F.3d 997, 1000 (8th Cir. 2004). Finally, the Court has independently reviewed the R&R and finds that a legal objection would be futile. Accordingly, the Court will deny Curry's request for an additional extension and will adopt the R&R.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court ADOPTS the R&R [Docket No. 41]. IT IS HEREBY ORDERED THAT:

1. Defendants' motion to dismiss or for summary judgment [Docket No. 27] is GRANTED.
2. Plaintiff's complaint [Docket No. 1] is DISMISSED WITH PREJUDICE AND ON THE MERITS.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 5, 2007

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge